

REMARKS

Claims 1-6, 8-12, 14-19, and 27-32 are now pending in the application. Claims 7 and 13, and withdrawn claims 20-26 were cancelled without prejudice. Claims 27-32 are new and fully supported by the specification and drawings as originally filed. No new matter was added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

CLAIM OBJECTION

Claim 17 is objected to because of certain informalities. Claim 17 was amended such that this objection is now moot. Withdrawal of the objection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-5 and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson et al (U.S. Pat. No. 5,683,469). This rejection is respectfully traversed.

Johnson et al discloses a tibial trial prosthesis 10 having a trial plate/tray 11 with a central V-shaped slot 20 and a central opening 42 receiving a stem/plug 12 perpendicular to the trial plate. See FIGS. 1-2 and 7, and column 5, lines 54-57 and 64. A lever (handle) 14 having a tab 34 is used to engage a slot 30 of an insert 13 for removing or attaching the insert 13 to the tray 11. See FIGS. 3, 5 and 7, and column 6, lines 37-40. The lever is attached symmetrically and in no way offset, such as laterally or medially, relative to the tray 11.

Regarding independent claim 1, the Examiner appears to interpret the axis of the plug 12 that passes through the central opening 42 of the tray 11 as a center axis of the tray 11 and asserts that that axis is offset from the handle. Applicants respectfully submit that this interpretation is not reasonable from the point of view of a person of ordinary skill in the art. Nevertheless, in the interest of advancing the examination of the application, Applicants have amended claim 1 to avoid any possibility of misinterpretation, however remote.

Johnson et al clearly fails to disclose all the limitations of amended independent claim 1. In particular, Johnson et al fails to disclose a handle having a longitudinal axis coaxially aligned to the center axis of the base, the handle coupled to the base only at an anterior base location that is offset relative to the center axis. As discussed above, Johnson et al does not disclose any handle that can remotely be considered offset relative to a coaxial center axis of the tibial base. Therefore, independent claim 1 is not anticipated by Johnson et al. Claims 2-5 depend from claim 1 and, at least for this reason, are not anticipated by Johnson et al.

The limitations of claim 7 were included in amended claim 1. Accordingly, claim 7 was cancelled. Applicants respectfully submit that claim 7 should have been allowable as originally filed, because it clearly eliminates any possibility that the axis of stem 12 of Johnson et al can be interpreted as the center axis of the tibial tray that is offset relative to the handle.

Claims 8-14, and 16-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Burkinshaw et al (U.S. Pat. No. 6,159,216). This rejection is respectfully traversed.

Burkinshaw et al discloses a tibial baseplate trial member 12 and a removable handle 18. The handle is symmetric and is symmetrically attached to the baseplate, with no offset of any kind. See FIGS. 1 and 2. The Office Action appears to mentally dissect the handle 18 into two pieces, throw away one of the pieces and then assert that the remaining half is offset relative to the trial member 12. Applicants respectfully submit that such interpretation is not in accordance with the standards of a person of ordinary skill in the art. Nevertheless, in the interest of advancing the examination of the application, Applicants have amended independent claims 8 and 17 to avoid any possibility of misinterpretation, however remote.

Accordingly, and regarding independent claim 8, Burkinshaw et al clearly fails to disclose a link having first and second ends, the first end coupled to the base only at a position that is medially offset from the center axis, and a handle having a central longitudinal axis coaxially aligned with the center axis of the base, the handle coupled to the second end of the link. Therefore, claim 8 is not anticipated by Burkinshaw et al.

Claims 9-12, 14 and 16 depend from claim 8 and, at least for this reason, are not anticipated by Burkinshaw. Further, and regarding claim 14, Burkinshaw et al fails to disclose that the link defines a longitudinal axis that is at an angle with the center axis of the base.

Further, and regarding claim 16, Burkinshaw et al fails to disclose that the curved portion of the link defines a lateral clearance extending beyond the center axis of the

base, for the simple reason that the link 18 of Burkinshaw is symmetrically or centrally attached to the baseplate 12 and not in any way offset relative to the baseplate 12.

The limitations of claim 13 were included in amended claim 8, and claim 13 was accordingly cancelled without prejudice. Applicants respectfully submit that claim 13, as originally filed, should have been allowable.

Regarding independent claim 17, and as discussed above, Burkinshaw et al fails to disclose a handle having a central longitudinal axis parallel to the center axis of the tibial base, the handle having a first end, the first end coupled to the base, the first end having a medially offset cutout, the cutout defining a lateral clearance extending beyond the center axis of the base and beyond the longitudinal axis of the handle. Therefore, claim 17 is not anticipated by Burkinshaw et al. Claims 18 and 19 depend from claim 17 and, at least for this reason, are not anticipated by Burkinshaw et al.

Reconsideration and withdrawal of these rejections is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson et al. This rejection is respectfully traversed.

Claim 6 depends from claim 1, which as discussed above, is not anticipated by Johnson et al and, therefore, cannot be obvious over Johnson et al because of the elements of claim 1 which Johnson et al fails to disclose, as discussed above. Additionally, the base/tray 11 of Johnson et al cannot be reversible because it receives a plastic insert 13 on one side. See FIG. 10 and column 6, lines 19-24 and 35-40. Accordingly, Johnson et al teaches away from reversing the tray 11. Further, and for

this additional reason Johnson et al needs to attach a handle 14 that is symmetric and not offset relative to the tray 11. Therefore, claim 6 is patentable over Johnson et al.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Burkinshaw et al. This rejection is respectfully traversed

Claim 15 ultimately depends from independent claim 8, which, as discussed above, is not anticipated by Burkinshaw et al and therefore cannot be obvious over Burkinshaw et al because of the elements of claim 8, which Burkinshaw et al fails to disclose. Further, claim 15 depends from claim 14. Burkinshaw et al fails to disclose the additional limitation of claim 14 that the link defines a longitudinal axis that is at an angle with the center axis of the base. Therefore, there is no angle as such for the person of the ordinary skill in the art to provide any range, let alone the range specified in claim 15.

Reconsideration and withdrawal of the rejections of claims 14 and 15 is respectfully requested.

NEW CLAIMS

Claims 27-32 are new and fully supported by the specification and drawings as originally filed. Support can be found, for example, in FIG. 1 and in paragraphs [0014], [0017] and [0018] of the application.

Claims 27 and 28 depend from claim 1, and claims 29 and 30 depend from claim 8. Independent claims 1 and 8 are not anticipated by or obvious in view of Johnson et al and Burkinshaw et al, as discussed above.

Claim 31 and its dependent claim 32 recite a handle attached to the base at an anterior location of the base that is offset from the longitudinal axis of the handle. This limitation is not disclosed in either Johnson et al or Burkinshaw et al.

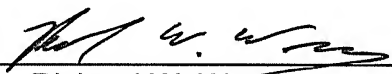
Therefore, applicants respectfully submit that added claims 27-32 are in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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